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DEC. 8, 1943

## WAR FOOD ADMINISTRATION

[FDO 89]

## PART 1460—FATS AND OILS

## CONSERVATION AND DISTRIBUTION OF PEANUTS AND PEANUT BUTTER

The fulfillment of requirements for the defense of the United States will result in a shortage in the supply of peanuts and peanut butter for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense.

§ 1460.32 *Restrictions on the use of peanuts and peanut butter*—(a) *Definitions*. When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof:

(1) The term "person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(2) The term "peanuts" means all varieties, types, and grades of peanuts produced in or imported into the United States (except peanuts used in the production of peanut oil) which have been cleaned, shelled, or otherwise processed, but it does not include "farmers' stock peanuts."

(3) The term "farmers' stock peanuts" means peanuts in the shell which have been picked or threshed, but which have not been cleaned, shelled, crushed, or otherwise changed from their natural state after picking or threshing.

(4) The term "quota" means: (i) with respect to peanuts, the quantity of peanuts which a person is permitted to use, pursuant to the provisions of paragraph (b) hereof; and (ii) with respect to peanut butter, the quantity of peanut butter which a person is permitted to use, pursuant to the provisions of paragraph (c) hereof.

(5) The term "Director" means the Director of Food Distribution, War Food Administration.

(b) *General restrictions and quotas in connection with the use of peanuts*. Except as permitted under (d), (e), (f), and (k) hereof, no person shall use more peanuts during any quota period as may be specified by the Director in manufacturing peanut butter, confectionery, bakery goods, salted peanuts, fried peanuts, roasted peanuts in the shell, otherwise cooked peanuts, or other products

containing peanuts than the quota therefor as may be specified by the Director. The Director may, whenever he shall deem it to be necessary or desirable, establish or change quotas and quota periods for the use of peanuts in the manufacture of such products pursuant to the provisions hereof: *Provided, however*, That all quotas hereunder for the manufacture of the several products listed above in this paragraph (b), except for the manufacture of roasted peanuts in the shell, shall be computed by weight on a shelled basis.

(c) *General restrictions and quotas in connection with the use of peanut butter*. Except as permitted under (d), (e), (f), and (k) hereof, no person shall use more peanut butter during any quota period as may be specified by the Director in manufacturing confectionery, bakery goods, or other products containing peanut butter than the quota therefor as may be specified by the Director: *Provided, however*, That the use of peanut butter by a person in making sandwiches (except so-called peanut butter sandwiches which consist of two, or more, baked wafers or crackers with peanut butter filling between them) or preparing meals for sale on any business premises owned or operated by him shall not be considered as manufacturing. The Director may, whenever he shall deem it to be necessary or desirable, establish or change quotas and quota periods for the use of peanut butter in the manufacture of such products pursuant to the provisions hereof.

(d) *Quota exemptions*. The restrictions as to the use of peanuts and peanut butter, as contained in (b) and (c) hereof, shall not apply, in any quota period, to any person whose aggregate use of peanuts and peanut butter in manufacturing the products listed in (b) and (c) hereof, in such quota period, is less than 3,000 pounds.

(e) *Carrying over of quotas*. If, in any quota period, any person does not use his quota for peanuts or peanut butter, as provided for in (b) and (c) hereof, he may carry over such unused portion to the succeeding quota period or quota periods and use such portion during any such succeeding period or periods in his discretion.

(f) *Non-quota uses*. Notwithstanding the restrictions contained in (b) and (c) hereof, and without charge to his quotas thereunder, any person may use any amount of peanuts or peanut butter

in the manufacture of any product listed in (b) or (c) hereof which is to be delivered, either directly or through an intermediate distributor, to:

(1) The Army, Navy, Marine Corps, or Coast Guard of the United States (including, but not restricted to, United States Army post exchanges, United States Navy ships' service departments, and United States Marine Corps post exchanges);

(2) The Food Distribution Administration, War Food Administration (including, but not restricted to, the Federal Surplus Commodities Corporation);

(3) The War Shipping Administration;

(4) The Veterans' Administration;

(5) Any person who, pursuant to a food distribution regulation, is entitled to purchase food subject to this order;

(6) Any other instrumentality or agency designated by the War Food Administrator;

(7) Any person for use in the manufacture of any product to be delivered to any of the agencies or persons listed in (1), (2), (3), (4), (5), or (6) of this paragraph (f); or

(8) Any wholesaler or jobber for delivery to any of the agencies or persons listed in (1), (2), (3), (4), (5), or (6) of this paragraph (f): *Provided, however*, That the responsibility shall be upon the person claiming such exemption for non-quota use to establish, to the satisfaction of the Director, that the peanuts or peanut butter involved was or were actually used in the manufacture of the products delivered to one or more of the exempt agencies or persons listed above.

(g) *Contracts*. The restrictions of this order shall be observed without regard to contracts heretofore or hereafter entered into, or any rights accrued, or payments made thereunder.

(h) *Territorial extent*. This order shall apply only to the 48 States of the United States and the District of Columbia.

(i) *Audits and inspections*. The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises or stocks of peanuts or peanut butter of any person, and to make such investigations, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(j) *Records and reports*. (1) The Director shall be entitled to obtain such



information from, and require such reports and the keeping of such records by, any person, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(2) Every person subject to this order shall, for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his transactions in peanuts and peanut butter.

(3) The record-keeping requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Subsequent record-keeping or reporting requirements will be subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(k) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional or unreasonable hardship on him may file a petition for relief with the Order Administrator. Such petition shall be addressed to Order Administrator, Food Distribution Order No. 89, Special Commodities Branch, Food Distribution Administration, War Food Administration, Washington 25, D. C. Petition for such relief shall be in writing and shall set forth all pertinent facts and the nature of the relief sought. If such person is dissatisfied with the action taken by the Order Administrator on the petition, by requesting the Order Administrator therefor, he shall obtain a review of such

action by the Director. The Director may, after said review, take such action as he deems appropriate, and such action shall be final.

(l) *Violations.* The War Food Administrator may, by suspension order, prohibit any person who violates any provision of this order from receiving, making any deliveries of, or using peanuts or peanut butter, or any other material subject to priority or allocation control by the War Food Administrator, and may recommend that any such person be prohibited from receiving, making any deliveries of, or using materials subject to priority or allocation control of other governmental agencies. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(m) *Delegation of authority.* The administration of this order, and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order.

(n) *Communications.* All reports required to be filed and all communications concerning this order shall be addressed to Order Administrator, Food

Distribution Order No. 89, Special Commodities Branch, Food Distribution Administration, War Food Administration, Washington 25, D. C., Ref. FDO 89.

(o) *Relevancy to Food Distribution Orders Nos. 29 and 42, as amended, and to Commodity Credit Corporation Order No. 4, as amended.* The provisions of this order shall not be considered as affecting or changing in any way: (1) the provisions of Food Distribution Order No. 29, as amended (8 F.R. 2915, 5619, 8623, 10970, 12255, and 15551), with respect to restrictions on the use and distribution of peanut oil; or (2) the provisions of Food Distribution Order No. 42, as amended (8 F.R. 4147, 9483, and 13970), with respect to the restrictions set forth therein in connection with the use of fats and oils; or (3) the provisions of Commodity Credit Corporation Order No. 4, as amended (8 F.R. 11499), with respect to the cleaning and shelling of "farmers' stock peanuts," including, but not limited to, the authority given therein to the War Food Administrator and the President of the Commodity Credit Corporation to allocate "farmers' stock peanuts" for such uses.

(p) *Effective date.* This order shall become effective 12:01 a. m., e. w. t., December 15, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 8th day of December 1943.

ASHLEY SELLERS,  
Assistant War Food Administrator.

War Food Administration,  
Summary to FDO No. 89.

Food Distribution Order No. 78 relating to the allocation and use of peanuts and peanut butter has been terminated and a superseding order—FDO 89—has been issued. The new order empowers the Director to prescribe quotas for peanuts and peanut butter. The new order also

authorizes the Director to require reports from industrial users.

It is contemplated that industrial users will be required to submit monthly reports to the Food Distribution Administration. Such reports will furnish needed information upon which quotas on the consumption of peanuts by different types of users, including peanut butter

manufacturers, peanut salters, peanut candy makers, bakers and roasters of peanuts, could be equitably established if it became necessary.

FDO 78 has been suspended since October 1 to help industrial users of peanuts utilize to the maximum the 700,000 tons of peanuts allocated for edible purposes by the Commodity Credit Corporation earlier this year.

PEANUT USAGE REPORT FOR 1943

Pursuant to Food Distribution Order No. 89

Mail To: WAR FOOD ADMINISTRATION  
Food Distribution Administration  
Washington 25, D. C.  
Ref: FDO 89

One copy of this report signed by an authorized person of your company should be mailed to the above address on or before January 15, 1944 by all users of more than 1,000 pounds of Peanuts and/or peanut butter monthly.

Date

Name of Company

Street Address

City and State

LIBRARY  
CURRENT SERIAL RECORD

★ JAN 5 - 1944 ★

U.S. DEPARTMENT OF AGRICULTURE

Fill in below your 1943 Peanut Usage

Item	Class of Use	1st Qtr. Jan-Mar	2nd Qtr. Apr-June	3rd Qtr. July-Sept.	October	November	December
	Shelled Peanuts Used in:	Report all quantities in Pounds of Shelled Nuts, Raw Basis					
1.	Peanut Candy						
2.	Salted or Fried Peanuts						
3.	Bakery Products						
4.	Manufacture of Peanut Butter						
	(a) To be sold as such						
	For use in products in- (b) cluded in Items 7(a) to 7(d)						
5.	Total Shelled Peanuts Used (Items 1 thru 4)						
	Peanut Butter:	Report all quantities in pounds of Peanut Butter					
6.	Purchased Peanut Butter For Use in Products In- cluded in Items 7(a) to 7(d)						
7.	Total Peanut Butter Used: (Include that manufactured by you or purchased)						
	(a) In Confections						
	(b) In Peanut Butter Sandwiches						
	(c) In Bakery Products						
	(d) In Other ways (describe)						

Before filling in, please read the instructions on the back of this form.

CERTIFICATION

The undersigned certifies that the information contained in this report is correct and complete to the best of his knowledge and belief.

Signature of Authorized Official

Date

Title

## INSTRUCTIONS

The total weight of granulated or grated peanuts, whether used in peanut butter, bakery goods, or peanut candy, should be included as shelled peanuts under the appropriate headings on the reverse side.

"Blanched" peanuts (meaning shelled peanuts which have been roasted slightly, which have the outer skins removed, and which will be processed further before being used in the manufacture of a final product) should not be included in any heading of the report on the reverse side except by manufacturers who use blanched peanuts in peanut butter, salted peanuts, peanut candy or bakery goods.

Manufacturers who sell peanut butter to other "users" or processors should include such butter to be sold in Item 4. (a), (in terms of shelled peanuts).

The term "Confections" as used in Item 7. (a) includes all types of candy, kisses, bars, etc.

The term "Peanut Butter Sandwiches" in Item 7. (b) refers to baked crackers with a filling of peanut butter, but does not include sandwiches consisting of slices of bread spread with peanut butter.

If your use of peanuts or peanut butter cannot be classified in one of the classes on the reverse side, please submit the information in a letter with a complete description of use.